

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
WICHITA FALLS DIVISION

FRANCISCAN ALLIANCE, INC., *et al.*,

*Plaintiffs,*

v.

ALEX M. AZAR, II, *et al.*,

*Defendants.*

No. 7:16-CV-00108-O

**Private Plaintiffs' Response  
to Defendants' Motion to  
Modify Final Judgment**

In accordance with this Court's order (ECF No. 179), Private Plaintiffs respond to Defendants' Motion to Modify Final Judgment (ECF No. 178).

Private Plaintiffs believe Defendants' Motion is unnecessary. The Court's summary-judgment order makes clear that the Court has vacated the Rule only insofar as it defines "on the basis of sex" to include "gender identity" and "termination of pregnancy." *See* ECF No. 175 at 22-23 & n.7 (incorporating the severability analysis of ECF No. 62); ECF No. 62 at 46 (ordering relief against "[o]nly the Rule's command this Court finds is contrary to law and exceeds statutory authority—the prohibition of discrimination on the basis of 'gender identity' and 'termination of pregnancy'").

To the extent, however, the Court is inclined to modify its judgment in light of Defendants' Motion, Private Plaintiffs agree that the proposed language set out in the State Plaintiffs' Response to Defendants' Motion to Modify Final Judgment (ECF No. 180) better captures the conclusion of the Court's summary-judgment order than does Defendants' proposal.

Respectfully submitted this the 20th day of November, 2019.

/s/ Luke W. Goodrich

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### **CERTIFICATE OF SERVICE**

I hereby certify that on November 20, 2019, the foregoing was served on all parties via ECF.

/s/ Luke W. Goodrich

Luke W. Goodrich